

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1192

Introduced by Senator Evans

February 22, 2012

An act to amend, *repeal, and add* Sections 8670.40, 8670.41, and 8670.48 of, and to add *and repeal* Section 8670.43 to, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1192, as amended, Evans. Oil spill prevention and administrative fee.

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed, until January 1, 2015, \$0.065 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes, including to cover the costs incurred by the Oiled Wildlife Care Network for training and field collection, and search and rescue activities.

This bill would ~~extend the authority to use money in the fund to pay for other costs incurred by the Oiled Wildlife Care Network, including~~

~~costs of training and field collection, and search and rescue activities, and would, until January 1, 2015,~~ increase the maximum annual assessment from \$0.065 to \$0.068 per barrel of crude oil or petroleum products. The bill would subsequently decrease the annual assessment, beginning January 1, 2015, to a maximum of ~~\$0.053~~ \$0.050 per barrel of crude oil or petroleum products.

Existing law permits the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing oil spill prevention relating to nontank vessels.

This bill would, *until January 1, 2015*, require the fee to be at least \$3,500 per nontank vessel but would give the administrator discretion to reduce the fee for nontank vessels that pose a reduced risk of pollution.

Existing law requires the administrator to submit for each fiscal year, as a part of the Governor's Budget, a proposed appropriation from interest earned on moneys deposited into the Oil Spill Response Trust Fund, in an amount not to exceed \$2,000,000, for the purposes of equipping, operating, and maintaining the network of oiled wildlife rescue and rehabilitation stations, proactive oiled wildlife search and collection rescue efforts, and supporting technology development and research related to oiled wildlife care. Existing law requires that any remaining interest earned be deposited into the Oil Spill Prevention and Administration Fund.

This bill would, *until January 1, 2015*, transfer 3 mills of the per barrel of crude oil or petroleum products fee collected, and \$250 of the per nontank vessel fee collected, to fund specified activities the Oiled Wildlife Care Network. The bill would also allow another additional amount, not to exceed the difference between the interest earned and \$2,000,000, to be included in the proposed appropriation from funds deposited into the Oil Spill Response Trust Fund if this proposed appropriation exceeds the interest earned on the funds deposited into the Oil Spill Response Trust Fund available for the fiscal year for which the appropriation is proposed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment shall not exceed six and eight-tenths cents (\$0.068) per barrel of crude oil or petroleum products. ~~Beginning January 1, 2015, the annual assessment shall not exceed five and three-tenths cents (\$0.053) per barrel of crude oil or petroleum products.~~

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that crude oil is received at a marine terminal from within or outside the state, and upon a person who owns petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, an operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state. The fees shall be remitted to the board by the terminal or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month. A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has been collected by a terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.

(2) An owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(3) On or before January 20, the administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on the plan, the administrator shall set the fee so that projected revenues, including any interest, are equivalent to expenses as reflected in the current Budget Act and in the proposed budget submitted by the Governor. In setting the fee, the administrator may allow for a surplus if the administrator finds that revenues will be exhausted during the period covered by the plan or that the surplus is necessary to cover possible contingencies. The administrator shall notify the board of the adjusted fee rate, which shall be rounded to no more than four decimal places, to be effective the first day of the month beginning not less than 30 days from the date of the notification.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies that may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(5) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars (\$100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars (\$100,000) from

1 the fund for the purpose of allowing the administrator to respond
2 to threatened oil spills.

3 (6) To reimburse the board for costs incurred to implement this
4 chapter and to carry out Part 24 (commencing with Section 46001)
5 of Division 2 of the Revenue and Taxation Code.

6 (7) To cover annual costs incurred by the Oiled Wildlife Care
7 Network established by Section 8670.37.5, including costs of
8 training and field collection, and search and rescue activities,
9 pursuant to subdivision (g) of Section 8670.37.5.

10 (f) The moneys deposited in the fund shall not be used for
11 responding to an oil spill.

12 (g) The moneys deposited in the fund shall not be used to
13 provide a loan to any other fund.

14 (h) *This section shall remain in effect only until January 1, 2015,*
15 *and as of that date is repealed, unless a later enacted statute, that*
16 *is enacted before January 1, 2015, deletes or extends that date.*

17 SEC. 2. Section 8670.40 is added to the Government Code, to
18 read:

19 8670.40. (a) *The State Board of Equalization shall collect a*
20 *fee in an amount determined by the administrator to be sufficient*
21 *to carry out the purposes set forth in subdivision (e), and a*
22 *reasonable reserve for contingencies. The annual assessment shall*
23 *not exceed five cents (\$0.05) per barrel of crude oil or petroleum*
24 *products.*

25 (b) (1) *The oil spill prevention and administration fee shall be*
26 *imposed upon a person owning crude oil at the time that crude oil*
27 *is received at a marine terminal from within or outside the state,*
28 *and upon a person who owns petroleum products at the time that*
29 *those petroleum products are received at a marine terminal from*
30 *outside this state. The fee shall be collected by the marine terminal*
31 *operator from the owner of the crude oil or petroleum products*
32 *based on each barrel of crude oil or petroleum products so*
33 *received by means of a vessel operating in, through, or across the*
34 *marine waters of the state. In addition, an operator of a pipeline*
35 *shall pay the oil spill prevention and administration fee for each*
36 *barrel of crude oil originating from a production facility in marine*
37 *waters and transported in the state by means of a pipeline*
38 *operating across, under, or through the marine waters of the state.*
39 *The fees shall be remitted to the board by the terminal or pipeline*
40 *operator on the 25th day of the month based upon the number of*

1 barrels of crude oil or petroleum products received at a marine
2 terminal or transported by pipeline during the preceding month.
3 A fee shall not be imposed pursuant to this section with respect to
4 crude oil or petroleum products if the person who would be liable
5 for that fee, or responsible for its collection, establishes that the
6 fee has been collected by a terminal operator registered under this
7 chapter or paid to the board with respect to the crude oil or
8 petroleum product.

9 (2) An owner of crude oil or petroleum products is liable for
10 the fee until it has been paid to the board, except that payment to
11 a marine terminal operator registered under this chapter is
12 sufficient to relieve the owner from further liability for the fee.

13 (3) On or before January 20, the administrator shall annually
14 prepare a plan that projects revenues and expenses over three
15 fiscal years, including the current year. Based on the plan, the
16 administrator shall set the fee so that projected revenues, including
17 any interest, are equivalent to expenses as reflected in the current
18 Budget Act and in the proposed budget submitted by the Governor.
19 In setting the fee, the administrator may allow for a surplus if the
20 administrator finds that revenues will be exhausted during the
21 period covered by the plan or that the surplus is necessary to cover
22 possible contingencies. The administrator shall notify the board
23 of the adjusted fee rate, which shall be rounded to no more than
24 four decimal places, to be effective the first day of the month
25 beginning not less than 30 days from the date of the notification.

26 (c) The moneys collected pursuant to subdivision (a) shall be
27 deposited into the fund.

28 (d) The board shall collect the fee and adopt regulations for
29 implementing the fee collection program.

30 (e) The fee described in this section shall be collected solely for
31 all of the following purposes:

32 (1) To implement oil spill prevention programs through rules,
33 regulations, leasing policies, guidelines, and inspections and to
34 implement research into prevention and control technology.

35 (2) To carry out studies that may lead to improved oil spill
36 prevention and response.

37 (3) To finance environmental and economic studies relating to
38 the effects of oil spills.

39 (4) To implement, install, and maintain emergency programs,
40 equipment, and facilities to respond to, contain, and clean up oil

1 *spills and to ensure that those operations will be carried out as*
2 *intended.*

3 *(5) To respond to an imminent threat of a spill in accordance*
4 *with the provisions of Section 8670.62 pertaining to threatened*
5 *discharges. The cumulative amount of an expenditure for this*
6 *purpose shall not exceed the amount of one hundred thousand*
7 *dollars (\$100,000) in a fiscal year unless the administrator receives*
8 *the approval of the Director of Finance and notification is given*
9 *to the Joint Legislative Budget Committee. Commencing with the*
10 *1993–94 fiscal year, and each fiscal year thereafter, it is the intent*
11 *of the Legislature that the annual Budget Act contain an*
12 *appropriation of one hundred thousand dollars (\$100,000) from*
13 *the fund for the purpose of allowing the administrator to respond*
14 *to threatened oil spills.*

15 *(6) To reimburse the board for costs incurred to implement this*
16 *chapter and to carry out Part 24 (commencing with Section 46001)*
17 *of Division 2 of the Revenue and Taxation Code.*

18 *(7) To cover costs incurred by the Oiled Wildlife Care Network*
19 *established by Section 8670.37.5 for training and field collection,*
20 *and search and rescue activities, pursuant to subdivision (g) of*
21 *Section 8670.37.5.*

22 *(f) The moneys deposited in the fund shall not be used for*
23 *responding to an oil spill.*

24 *(g) The moneys deposited in the fund shall not be used to provide*
25 *a loan to any other fund.*

26 *(h) This section shall become operative on January 1, 2015.*

27 ~~SEC. 2.~~

28 *SEC. 3. Section 8670.41 of the Government Code is amended*
29 *to read:*

30 *8670.41. (a) The administrator shall charge a nontank vessel*
31 *owner or operator a reasonable fee, to be collected with each*
32 *application to obtain a certificate of financial responsibility, in an*
33 *amount that is based upon the administrator's costs in*
34 *implementing this chapter relating to nontank vessels and shall be*
35 *at least three thousand five hundred dollars (\$3,500) per nontank*
36 *vessel.*

37 *(b) Notwithstanding subdivision (a), the administrator may*
38 *charge a reduced fee under this section for nontank vessels*
39 *determined by the administrator to pose a reduced risk of pollution,*

1 including, but not limited to, vessels used for research or training
2 and vessels that are moored permanently or rarely move.

3 (c) The administrator shall deposit all revenue derived from the
4 fees imposed under this section in the Oil Spill Prevention and
5 Administration Fund established in the State Treasury under
6 Section 8670.38.

7 (d) Revenue derived from the fees imposed under this section
8 may be spent for the purposes listed in subdivision (e) of Section
9 8670.40, and may not be used for responding to an oil spill.

10 (e) *This section shall remain in effect only until January 1, 2015,*
11 *and as of that date is repealed, unless a later enacted statute, that*
12 *is enacted before January 1, 2015, deletes or extends that date.*

13 SEC. 4. Section 8670.41 is added to the Government Code, to
14 read:

15 8670.41. (a) *The administrator shall charge a nontank vessel*
16 *owner or operator a reasonable fee, to be collected with each*
17 *application to obtain a certificate of financial responsibility, in*
18 *an amount that is based upon the administrator's costs in*
19 *implementing this chapter relating to nontank vessels.*

20 (b) *The administrator may charge a reduced fee under this*
21 *section for nontank vessels determined by the administrator to*
22 *pose a reduced risk of pollution, including, but not limited to,*
23 *vessels used for research or training and vessels that are moored*
24 *permanently or rarely move.*

25 (c) *The administrator shall deposit all revenue derived from the*
26 *fees imposed under this section in the Oil Spill Prevention and*
27 *Administration Fund established in the State Treasury under*
28 *Section 8670.38.*

29 (d) *Revenue derived from the fees imposed under this section*
30 *may be spent for the purposes listed in subdivision (e) of Section*
31 *8670.40, and may not be used for responding to an oil spill.*

32 (e) *This section shall become operative on January 1, 2015.*

33 ~~SEC. 3.~~

34 SEC. 5. Section 8670.43 is added to the Government Code, to
35 read:

36 8670.43. (a) Three mills (\$0.003) of the per barrel of crude
37 oil or petroleum products fee collected pursuant to subdivision (a)
38 of Section 8670.40 and two hundred fifty dollars (\$250) of the per
39 nontank vessel fee collected pursuant to Section ~~8670.43~~ 8670.41
40 shall be transferred from the Oil Spill Prevention and

Administration Fund to the Oil Spill Response Trust Fund and, upon appropriation by the Legislature, used for ~~funding activities covering the annual costs~~ of the Oiled Wildlife Care Network described in ~~subdivision (g) of Section 8670.37.5 paragraph (7) of subdivision (e) of Section 8670.40.~~

(b) *This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.*

~~SEC. 4.~~

SEC. 6. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon a person who owns petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) An owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) An operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) An operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, “independent crude oil producer” means a person or entity producing crude oil within this state who does not refine crude oil into a product, and who does not possess or own a retail gasoline marketing facility.

(d) A marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported from within this state by means of a marine vessel to a destination outside this state.

(e) An operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) (1) The fees required pursuant to this section shall be collected during any period for which the administrator determines that collection is necessary for any of the following reasons:

(A) The amount in the fund is less than or equal to 95 percent of the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code.

(B) Additional money is required to pay for the purposes specified in subdivision (k).

(C) The revenue is necessary to repay a draw on a financial security obtained by the Treasurer pursuant to subdivision (o) or borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or financial security.

(2) The administrator, in consultation with the State Board of Equalization, and with the approval of the Treasurer, may direct the State Board of Equalization to cease collecting the fee when

1 the administrator determines that further collection of the fee is
2 not necessary for the purposes specified in paragraph (1).

3 (3) The administrator, in consultation with the State Board of
4 Equalization, shall set the amount of the oil spill response fees.
5 The oil spill response fees shall be imposed on all feepayers in the
6 same amount. The administrator shall not set the amount of the
7 fee at less than twenty-five cents (\$0.25) for each barrel of
8 petroleum products or crude oil, unless the administrator finds that
9 the assessment of a lesser fee will cause the fund to reach the
10 designated amount specified in subdivision (a) of Section 46012
11 of the Revenue and Taxation Code within four months. The fee
12 shall not be less than twenty-five cents (\$0.25) for each barrel of
13 petroleum products or crude oil if the administrator has drawn
14 upon the financial security obtained by the Treasurer pursuant to
15 subdivision (o) or if the Treasurer has borrowed money pursuant
16 to Article 7.5 (commencing with Section 8670.53.1) and principal,
17 interest, premium, fees, charges, or costs of any kind incurred in
18 connection with those borrowings remain outstanding or unpaid,
19 unless the Treasurer has certified to the administrator that the
20 money in the fund is not necessary for the purposes specified in
21 paragraph (1).

22 (g) The fees imposed by subdivisions (d) and (e) shall be
23 imposed in any calendar year beginning the month following the
24 month when the total cumulative year-to-date barrels of crude oil
25 transported outside the state by all feepayers by means of vessel
26 or pipeline exceed 6 percent by volume of the total barrels of crude
27 oil and petroleum products subject to oil spill response fees under
28 subdivisions (a), (b), and (c) for the prior calendar year.

29 (h) For purposes of this chapter, “designated amount” means
30 the amounts specified in Section 46012 of the Revenue and
31 Taxation Code.

32 (i) The administrator, in consultation with the State Board of
33 Equalization and with the approval of the Treasurer, shall authorize
34 refunds of any money collected that is not necessary for the
35 purposes specified in paragraph (1) of subdivision (f). The State
36 Board of Equalization, as directed by the administrator, and in
37 accordance with Section 46653 of the Revenue and Taxation Code,
38 shall refund the excess amount of fees collected to each feepayer
39 who paid the fee to the state, in proportion to the amount that each
40 feepayer paid into the fund during the preceding 12 monthly

1 reporting periods in which there was a fee due, including the month
2 in which the fund exceeded the specified amount. If the total
3 amount of money in the fund exceeds the amount specified in this
4 subdivision by 10 percent or less, refunds need not be ordered by
5 the administrator. This section does not require the refund of excess
6 fees as provided in this subdivision more frequently than once
7 each year.

8 (j) The State Board of Equalization shall collect the fee and
9 adopt regulations implementing the fee collection program. All
10 fees collected pursuant to this section shall be deposited in the Oil
11 Spill Response Trust Fund.

12 (k) The fee described in this section shall be collected solely
13 for any of the following purposes:

14 (1) To provide funds to cover promptly the costs of response,
15 containment, and cleanup of oil spills into marine waters, including
16 damage assessment costs, and wildlife rehabilitation as provided
17 in Section 8670.61.5.

18 (2) To cover response and cleanup costs and other damages
19 suffered by the state or other persons or entities from oil spills into
20 marine waters, which cannot otherwise be compensated by
21 responsible parties or the federal government.

22 (3) To pay claims for damages pursuant to Section 8670.51.

23 (4) To pay claims for damages, except for damages described
24 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant
25 to Section 8670.51.1.

26 (5) To pay for the cost of obtaining financial security in the
27 amount specified in subdivision (b) of Section 46012 of the
28 Revenue and Taxation Code, as authorized by subdivision (o).

29 (6) To pay indemnity and related costs and expenses as
30 authorized by Section 8670.56.6.

31 (7) To pay principal, interest, premium, if any, and fees, charges,
32 and costs of any kind incurred in connection with moneys drawn
33 by the administrator on the financial security obtained by the
34 Treasurer pursuant to subdivision (o) or borrowed by the Treasurer
35 pursuant to Article 7.5 (commencing with Section 8670.53.1).

36 (8) To pay for the costs of rescue, medical treatment,
37 rehabilitation, and disposition of oiled wildlife, as incurred by the
38 network of oiled wildlife rescue and rehabilitation stations created
39 pursuant to Section 8670.37.5.

1 (l) (1) The interest that the state earns on the funds deposited
2 into the Oil Spill Response Trust Fund shall be deposited in the
3 fund and shall be used to maintain the fund at the designated
4 amount specified in subdivision (a) of Section 46012 of the
5 Revenue and Taxation Code. Interest earned until July 1, 1998,
6 on funds deposited pursuant to subdivision (a) of Section 46012
7 of the Revenue and Taxation Code, as determined jointly by the
8 Controller and the Director of Finance, shall be available upon
9 appropriation by the Legislature in the Budget Act to establish,
10 equip, operate, and maintain the network of rescue and
11 rehabilitation stations for oiled wildlife as described in Section
12 8670.37.5 and to support technology development and research
13 related to oiled wildlife care. Interest earned on the financial
14 security portion of the fund, required to be accessible pursuant to
15 subdivision (b) of Section 46012 of the Revenue and Taxation
16 Code shall not be available for that purpose. If the amount in the
17 fund exceeds that designated amount, the interest not needed to
18 equip, operate, and maintain the network of rescue and
19 rehabilitation stations, or for appropriate technology development
20 and research regarding oiled wildlife care, shall be deposited into
21 the Oil Spill Prevention and Administration Fund, and shall be
22 available for the purposes authorized by Article 6 (commencing
23 with Section 8670.38).

24 (2) (A) (i) For each fiscal year, consistent with this article, the
25 administrator shall submit, as a proposed appropriation in the
26 Governor's Budget, an amount up to two million dollars
27 (\$2,000,000) of the Oil Spill Response Trust Fund for the purpose
28 of equipping, operating, and maintaining the network of oiled
29 wildlife rescue and rehabilitation stations and proactive oiled
30 wildlife search and collection rescue efforts established pursuant
31 to Section 8670.37.5 and for support of technology development
32 and research related to oiled wildlife care.

33 (ii) The proposed appropriation submitted pursuant to this
34 paragraph shall be made up of the interest earned on the funds
35 deposited into the Oil Spill Response Trust Fund. If there is any
36 remaining interest earned in excess of the amount appropriated,
37 such funds shall be deposited into the Oil Spill Prevention and
38 Administration Fund pursuant to paragraph (1).

39 (iii) If the proposed appropriation submitted pursuant to this
40 subparagraph exceeds the interest earned on the funds deposited

1 into the Oil Spill Response Trust Fund available for the fiscal year
2 for which the appropriation is proposed, then an additional amount
3 not to exceed the difference between the interest earned and two
4 million dollars (\$2,000,000) may be included in the proposed
5 appropriation from funds deposited into the Oil Spill Response
6 Trust Fund specifically for this purpose to the extent that such
7 funds are transferred in Section 8670.43.

8 (B) The administrator shall report to the Legislature not later
9 than June 30, 2002, on the progress and effectiveness of the
10 network of oiled wildlife rescue and rehabilitation stations
11 established pursuant to Section 8670.37.5, and the adequacy of
12 the Oil Spill Response Trust Fund to meet the purposes for which
13 it was established.

14 (C) At the administrator's request, the funds made available
15 pursuant to this paragraph may be directly appropriated to a suitable
16 program for wildlife health and rehabilitation within a school of
17 veterinary medicine within this state, provided that an agreement
18 exists, consistent with this chapter, between the administrator and
19 an appropriate representative of the program for carrying out that
20 purpose. The administrator shall attempt to have an agreement in
21 place at all times. The agreement shall ensure that the training of,
22 and the care provided by, the program staff are at levels that are
23 consistent with those standards generally accepted within the
24 veterinary profession.

25 (D) The funds made available pursuant to this paragraph shall
26 not be considered an offset to any other state funds appropriated
27 to the program, the program's associated school of veterinary
28 medicine, or the program's associated college or university, and
29 the funds shall not be used for any other purpose. If an offset does
30 occur or the funds are used for an unintended purpose, expenditure
31 of any appropriation of funds pursuant to this paragraph may be
32 terminated by the administrator and the administrator may request
33 a reappropriation to accomplish the intended purpose. The
34 administrator shall annually review and approve the proposed uses
35 of any funds made available pursuant to this paragraph.

36 (m) The Legislature finds and declares that effective response
37 to oil spills requires that the state have available sufficient funds
38 in a response fund. The Legislature further finds and declares that
39 maintenance of that fund is of utmost importance to the state and

1 that the money in the fund shall be used solely for the purposes
2 specified in subdivision (k).

3 (n) It is the intent of the Legislature, in enacting this section,
4 that the fee shall not be imposed by a refiner, or a person or entity
5 acting as an agent for a refiner, on crude oil produced by an
6 independent crude oil producer.

7 (o) The Treasurer shall obtain financial security, in the
8 designated amount specified in subdivision (b) of Section 46012
9 of the Revenue and Taxation Code, in a form which, in the event
10 of an oil spill, may be drawn upon immediately by the administrator
11 upon making the determinations required by paragraph (2) of
12 subdivision (a) of Section 8670.49. The financial security may be
13 obtained in any of the forms described in subdivision (b) of Section
14 8670.53.3, as determined by the Treasurer.

15 (p) This section does not limit the authority of the administrator
16 to raise oil spill response fees pursuant to Section 8670.48.5.

17 (q) *This section shall remain in effect only until January 1, 2015,*
18 *and as of that date is repealed, unless a later enacted statute, that*
19 *is enacted before January 1, 2015, deletes or extends that date.*

20 SEC. 7. Section 8670.48 is added to the Government Code, to
21 read:

22 8670.48. (a) (1) *A uniform oil spill response fee in an amount*
23 *not exceeding twenty-five cents (\$0.25) for each barrel of petroleum*
24 *products, as set by the administrator pursuant to subdivision (f),*
25 *shall be imposed upon a person who owns petroleum products at*
26 *the time the petroleum products are received at a marine terminal*
27 *within this state by means of a vessel from a point of origin outside*
28 *this state. The fee shall be remitted to the State Board of*
29 *Equalization by the terminal operator on the 25th day of each*
30 *month based upon the number of barrels of petroleum products*
31 *received during the preceding month.*

32 (2) *An owner of petroleum products is liable for the fee until it*
33 *has been paid to the state, except that payment to a marine terminal*
34 *operator registered under this chapter is sufficient to relieve the*
35 *owner from further liability for the fee.*

36 (b) *An operator of a pipeline shall also pay a uniform oil spill*
37 *response fee in an amount not exceeding twenty-five cents (\$0.25)*
38 *for each barrel of petroleum products, as set by the administrator*
39 *pursuant to subdivision (f), transported into the state by means of*
40 *a pipeline operating across, under, or through the marine waters*

1 of the state. The fee shall be paid on the 25th day of each month
2 based upon the number of barrels of petroleum products so
3 transported into the state during the preceding month.

4 (c) (1) An operator of a refinery shall pay a uniform oil spill
5 response fee in an amount not exceeding twenty-five cents (\$0.25)
6 for each barrel of crude oil, as set by the administrator pursuant
7 to subdivision (f), received at a refinery within the state. The fee
8 shall be paid on the 25th day of each month based upon the number
9 of barrels of crude oil so received during the preceding month.

10 (2) The fee shall not be imposed by a refiner, or a person or
11 entity acting as an agent for a refiner, on crude oil produced by
12 an independent crude oil producer as defined in paragraph (3).
13 The board shall not identify a company as exempt from the fee
14 requirements of this section if that company was reorganized, sold,
15 or otherwise modified with the intent of circumventing the
16 requirements of this section.

17 (3) For purposes of this chapter, “independent crude oil
18 producer” means a person or entity producing crude oil within
19 this state who does not refine crude oil into a product, and who
20 does not possess or own a retail gasoline marketing facility.

21 (d) A marine terminal operator shall pay a uniform oil spill
22 response fee in an amount not exceeding twenty-five cents (\$0.25),
23 in accordance with subdivision (g), for each barrel of crude oil,
24 as set by the administrator pursuant to subdivision (f), that is
25 transported from within this state by means of a marine vessel to
26 a destination outside this state.

27 (e) An operator of a pipeline shall pay a uniform oil spill
28 response fee in an amount not exceeding twenty-five cents (\$0.25),
29 in accordance with subdivision (g), for each barrel of crude oil,
30 as set by the administrator pursuant to subdivision (f), transported
31 out of the state by pipeline.

32 (f) (1) The fees required pursuant to this section shall be
33 collected during any period for which the administrator determines
34 that collection is necessary for any of the following reasons:

35 (A) The amount in the fund is less than or equal to 95 percent
36 of the designated amount specified in subdivision (a) of Section
37 46012 of the Revenue and Taxation Code.

38 (B) Additional money is required to pay for the purposes
39 specified in subdivision (k).

(C) *The revenue is necessary to repay a draw on a financial security obtained by the Treasurer pursuant to subdivision (o) or borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or financial security.*

(2) *The administrator, in consultation with the State Board of Equalization, and with the approval of the Treasurer, may direct the State Board of Equalization to cease collecting the fee when the administrator determines that further collection of the fee is not necessary for the purposes specified in paragraph (1).*

(3) *The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all feepayers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents (\$0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code within four months. The fee shall not be less than twenty-five cents (\$0.25) for each barrel of petroleum products or crude oil if the administrator has drawn upon the financial security obtained by the Treasurer pursuant to subdivision (o) or if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the money in the fund is not necessary for the purposes specified in paragraph (1).*

(g) *The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceed 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.*

(h) *For purposes of this chapter, “designated amount” means the amounts specified in Section 46012 of the Revenue and Taxation Code.*

1 (i) *The administrator, in consultation with the State Board of*
2 *Equalization and with the approval of the Treasurer, shall*
3 *authorize refunds of any money collected that is not necessary for*
4 *the purposes specified in paragraph (1) of subdivision (f). The*
5 *State Board of Equalization, as directed by the administrator, and*
6 *in accordance with Section 46653 of the Revenue and Taxation*
7 *Code, shall refund the excess amount of fees collected to each*
8 *feepayer who paid the fee to the state, in proportion to the amount*
9 *that each feepayer paid into the fund during the preceding 12*
10 *monthly reporting periods in which there was a fee due, including*
11 *the month in which the fund exceeded the specified amount. If the*
12 *total amount of money in the fund exceeds the amount specified*
13 *in this subdivision by 10 percent or less, refunds need not be*
14 *ordered by the administrator. This section does not require the*
15 *refund of excess fees as provided in this subdivision more*
16 *frequently than once each year.*

17 (j) *The State Board of Equalization shall collect the fee and*
18 *adopt regulations implementing the fee collection program. All*
19 *fees collected pursuant to this section shall be deposited in the Oil*
20 *Spill Response Trust Fund.*

21 (k) *The fee described in this section shall be collected solely for*
22 *any of the following purposes:*

23 (1) *To provide funds to cover promptly the costs of response,*
24 *containment, and cleanup of oil spills into marine waters, including*
25 *damage assessment costs, and wildlife rehabilitation as provided*
26 *in Section 8670.61.5.*

27 (2) *To cover response and cleanup costs and other damages*
28 *suffered by the state or other persons or entities from oil spills*
29 *into marine waters, which cannot otherwise be compensated by*
30 *responsible parties or the federal government.*

31 (3) *To pay claims for damages pursuant to Section 8670.51.*

32 (4) *To pay claims for damages, except for damages described*
33 *in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant*
34 *to Section 8670.51.1.*

35 (5) *To pay for the cost of obtaining financial security in the*
36 *amount specified in subdivision (b) of Section 46012 of the Revenue*
37 *and Taxation Code, as authorized by subdivision (o).*

38 (6) *To pay indemnity and related costs and expenses as*
39 *authorized by Section 8670.56.6.*

1 (7) *To pay principal, interest, premium, if any, and fees, charges,*
2 *and costs of any kind incurred in connection with moneys drawn*
3 *by the administrator on the financial security obtained by the*
4 *Treasurer pursuant to subdivision (o) or borrowed by the Treasurer*
5 *pursuant to Article 7.5 (commencing with Section 8670.53.1).*

6 (8) *To pay for the costs of rescue, medical treatment,*
7 *rehabilitation, and disposition of oiled wildlife, as incurred by the*
8 *network of oiled wildlife rescue and rehabilitation stations created*
9 *pursuant to Section 8670.37.5.*

10 (l) (1) *The interest that the state earns on the funds deposited*
11 *into the Oil Spill Response Trust Fund shall be deposited in the*
12 *fund and shall be used to maintain the fund at the designated*
13 *amount specified in subdivision (a) of Section 46012 of the Revenue*
14 *and Taxation Code. Interest earned until July 1, 1998, on funds*
15 *deposited pursuant to subdivision (a) of Section 46012 of the*
16 *Revenue and Taxation Code, as determined jointly by the*
17 *Controller and the Director of Finance, shall be available upon*
18 *appropriation by the Legislature in the Budget Act to establish,*
19 *equip, operate, and maintain the network of rescue and*
20 *rehabilitation stations for oiled wildlife as described in Section*
21 *8670.37.5 and to support technology development and research*
22 *related to oiled wildlife care. Interest earned on the financial*
23 *security portion of the fund, required to be accessible pursuant to*
24 *subdivision (b) of Section 46012 of the Revenue and Taxation Code*
25 *shall not be available for that purpose. If the amount in the fund*
26 *exceeds that designated amount, the interest not needed to equip,*
27 *operate, and maintain the network of rescue and rehabilitation*
28 *stations, or for appropriate technology development and research*
29 *regarding oiled wildlife care, shall be deposited into the Oil Spill*
30 *Prevention and Administration Fund, and shall be available for*
31 *the purposes authorized by Article 6 (commencing with Section*
32 *8670.38).*

33 (2) (A) *For each fiscal year, consistent with this article, the*
34 *administrator shall submit, as a proposed appropriation in the*
35 *Governor's Budget, an amount up to two million dollars*
36 *(\$2,000,000) of the interest earned on the funds deposited into the*
37 *Oil Spill Response Trust Fund for the purpose of equipping,*
38 *operating, and maintaining the network of oiled wildlife rescue*
39 *and rehabilitation stations and proactive oiled wildlife search and*
40 *collection rescue efforts established pursuant to Section 8670.37.5*

1 and for support of technology development and research related
2 to oiled wildlife care. The remaining interest, if any, shall be
3 deposited into the Oil Spill Prevention and Administration Fund
4 pursuant to paragraph (1).

5 (B) The administrator shall report to the Legislature not later
6 than June 30, 2002, on the progress and effectiveness of the
7 network of oiled wildlife rescue and rehabilitation stations
8 established pursuant to Section 8670.37.5, and the adequacy of
9 the Oil Spill Response Trust Fund to meet the purposes for which
10 it was established.

11 (C) At the administrator's request, the funds made available
12 pursuant to this paragraph may be directly appropriated to a
13 suitable program for wildlife health and rehabilitation within a
14 school of veterinary medicine within this state, provided that an
15 agreement exists, consistent with this chapter, between the
16 administrator and an appropriate representative of the program
17 for carrying out that purpose. The administrator shall attempt to
18 have an agreement in place at all times. The agreement shall
19 ensure that the training of, and the care provided by, the program
20 staff are at levels that are consistent with those standards generally
21 accepted within the veterinary profession.

22 (D) The funds made available pursuant to this paragraph shall
23 not be considered an offset to any other state funds appropriated
24 to the program, the program's associated school of veterinary
25 medicine, or the program's associated college or university, and
26 the funds shall not be used for any other purpose. If an offset does
27 occur or the funds are used for an unintended purpose, expenditure
28 of any appropriation of funds pursuant to this paragraph may be
29 terminated by the administrator and the administrator may request
30 a reappropriation to accomplish the intended purpose. The
31 administrator shall annually review and approve the proposed
32 uses of any funds made available pursuant to this paragraph.

33 (m) The Legislature finds and declares that effective response
34 to oil spills requires that the state have available sufficient funds
35 in a response fund. The Legislature further finds and declares that
36 maintenance of that fund is of utmost importance to the state and
37 that the money in the fund shall be used solely for the purposes
38 specified in subdivision (k).

39 (n) It is the intent of the Legislature, in enacting this section,
40 that the fee shall not be imposed by a refiner, or a person or entity

1 *acting as an agent for a refiner, on crude oil produced by an*
2 *independent crude oil producer.*

3 *(o) The Treasurer shall obtain financial security, in the*
4 *designated amount specified in subdivision (b) of Section 46012*
5 *of the Revenue and Taxation Code, in a form which, in the event*
6 *of an oil spill, may be drawn upon immediately by the administrator*
7 *upon making the determinations required by paragraph (2) of*
8 *subdivision (a) of Section 8670.49. The financial security may be*
9 *obtained in any of the forms described in subdivision (b) of Section*
10 *8670.53.3, as determined by the Treasurer.*

11 *(p) This section does not limit the authority of the administrator*
12 *to raise oil spill response fees pursuant to Section 8670.48.5.*

13 *(q) This section shall become operative on January 1, 2015.*

14 *SEC. 8. The provisions of this act are severable. If any*
15 *provision of this act or its application is held invalid, that invalidity*
16 *shall not affect other provisions or applications that can be given*
17 *effect without the invalid provision or application.*